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Date: JANUARY 31, 2006

To: EXAMINER GARY, ERIKA A.
U.S. PATENT AND TRADEMARK OFFICE

Fax #: (571) 273-8300

From: FRANK C. NICHOLAS
Phone #: (847) 424-2521

Client/Matter No.: GP-302115 (2760/56)

of Pages: 10

(including cover sheet)

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Attorney Docket No	GP-302115 (2760/56)
Application Number	10/082,912
Filing Date	FEBRUARY 26, 2002
First Named Inventor	JEFFREY M. STEFAN
Group Art Unit	2681
Examiner	GARY, ERIKA A

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ENCLOSURES (check all that apply)

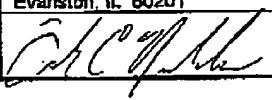
<input type="checkbox"/> Amendment	<input type="checkbox"/> Assignment Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> After Final	<input type="checkbox"/> Drawing Sheets	<input checked="" type="checkbox"/> Reply Brief
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<input type="checkbox"/> One-Month Petition for Extension of Time Request (dup)	<input type="checkbox"/> To Convert a Provisional Application	<input type="checkbox"/> Additional Enclosure(s) (please identify below)
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<input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No 07-0860 (GENERAL MOTORS CORPORATION). A duplicate copy of this sheet is enclosed.		
<input checked="" type="checkbox"/> I hereby petition under 37 CFR § 1.136(a) for any extension of time required to ensure that this paper is timely filed. Please charge any associated fees which have not otherwise been paid to Deposit Account No 07-0860 (GENERAL MOTORS CORPORATION). A duplicate copy of this sheet is enclosed.		

CALCULATION OF FEE

	Claims After Amendment		Highest No. Previously Paid For	Present Extra	Small Entity		Large Entity	
					Rate	Add'l Fee	Rate	Add'l Fee
Total		Minus		0	x \$25=	0	x \$50=	
Indep		Minus		0	x \$100=	0	x \$200=	
First Presentation of Multiple Dep. Claim					- \$180=	-	+ \$360=	
					total add'l fee	\$ 0	total add'l fee	\$ 0

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

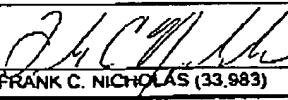
Firm or individual name	FRANK C. NICHOLAS Registration No. 33,983 CARDINAL LAW GROUP 1603 Orrington Avenue, Suite 2000 Evanston, IL 60201
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Signature  Date January 31, 2006

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Attorney Docket No.	GP-302116 (2760/58)
Application Number	10/082,912
Filing Date	FEBRUARY 25, 2002
First Named Inventor	JEFFREY M. STEFAN JAN 31 2006
Group Art Unit	2681
Examiner	GARY, ERIKA A.

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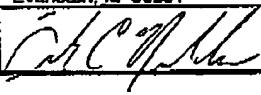
ENCLOSURES (check all that apply)

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<input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 07-0960 (GENERAL MOTORS CORPORATION). A duplicate copy of this sheet is enclosed.		
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Total		Minus		0	x \$25=	0	x \$50=	
Indep.		Minus		0	x \$100=	0	x \$200=	
First Presentation of Multiple Dep. Claim					+ \$180=	---	+ \$380=	
					total add'l fee	\$ 0	total add'l fee	\$ 0

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	FRANK C. NICHOLAS Registration No. 33,983 CARDINAL LAW GROUP 1603 Orrington Avenue, Suite 2000 Evanston, IL 60201		
Signature			Date: January 31, 2006

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Name of Appellant, assignee or registered representative

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PATENT
Case No. GP-302115
(2760/56)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re patent application of:)
)
 JEFFREY M. STEFAN ET AL.)
)
 Serial No.: 10/082,912)
)
 Filed: FEBRUARY 26, 2002)
)
 For: METHOD AND SYSTEM FOR)
 PURCHASING AND)
 REPLENISHING WIRELESS)
 NETWORK CALLING TIME)
)
 Examiner: GARY, ERIKA A.
 Group Art Unit: 2681
 Conf. No.: 2683

REPLY BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

Dear Sir:

Please consider Appellant's reply brief as follows.

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Section 102(e) has been applied to the claims incorrectly. As previously noted, “[F]or anticipation under 35 U.S.C. §102, a single reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present.” [MPEP §706.02.] “The identical invention must be shown in as complete detail as is contained in the . . . claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, USPQ2d 1913, 1920 (Fed. Cir. 1989).

With regard to independent claims 1, 5, and 9, at a minimum, Kiel does not disclose “transmitting the data encoding the purchased calling time from *the portable networking device* to an *onboard system*.” (emphases added) Claims 1, 5, and 9 were rejected as anticipated under §102, and not rejected as unpatentable under 35 U.S.C. §103. At a minimum, the Examiner has misapplied the law.

Appellants have previously specifically pointed out the differences between the Kiel device and the claimed invention. The Examiner’s answer fails to illustrate how the reference discloses the identical invention in as complete detail as contained in the claim. Simply put, Kiel does not anticipate these claims, under 35 U.S.C. §102.

The Examiner’s arguments in answer are unpersuasive and misleading. Specifically, rather than teaching “the activity monitoring unit and the client communication device embodied as separate devices” (page 4, Ex’rs Answer), Kiel teaches the activity monitoring unit and client communication device as *integral*.

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FIG. 1 of Kiel clearly illustrates the teachings of Kiel.

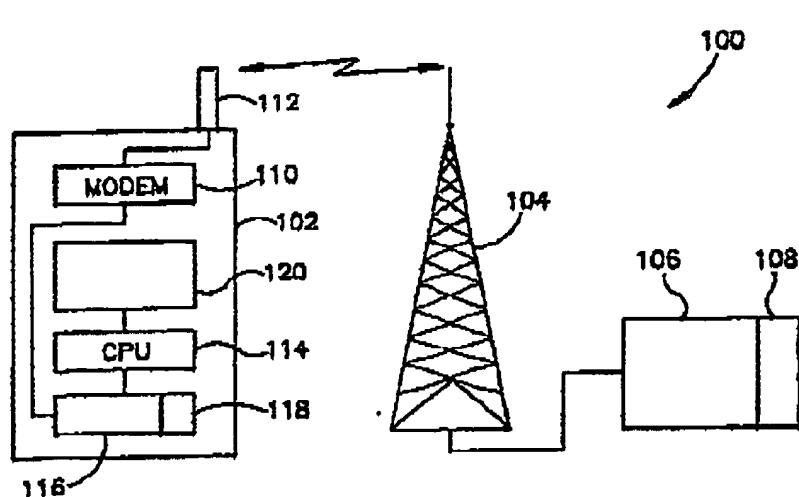


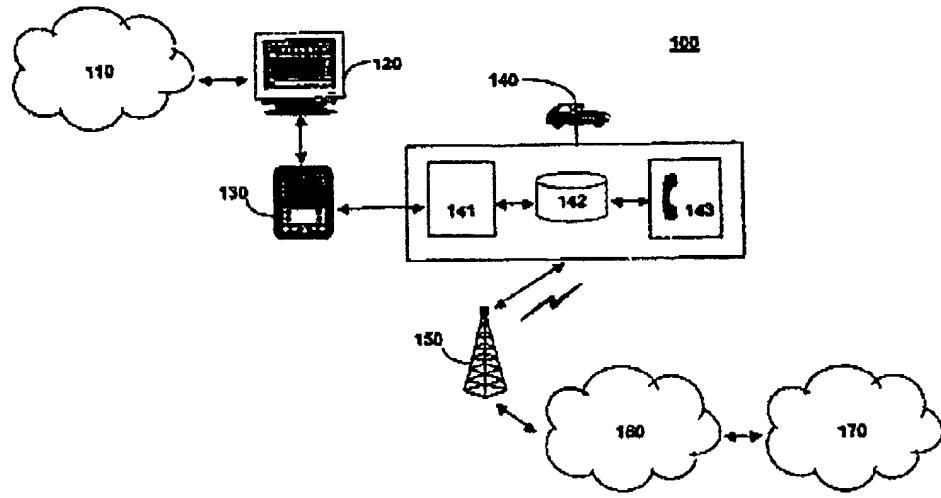
FIG.1

FIG. 1 illustrates the handheld communication device 102 (¶34 of Kiel) as including a modem 110 connected to antenna 112, CPU 114 and activity monitoring unit 116. Clearly, activity monitoring unit is part of and integral with the handheld communication device.

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Contrast the teachings of Kiel with FIG. 1 of the instant case:

FIG. 1



The Examiner is incorrectly likening the portable networking device 130 with the Kiel activity monitoring unit 116 and the onboard device 140 with the Kiel client communication device 112. A cursory comparison of the devices reveals that the Kiel "devices" are actually a single device, while the claimed portable networking device 130 and onboard device 140 are separate devices. Furthermore, those of ordinary skill in the art would not confuse a portable networking device with an activity monitoring unit.

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The Examiner's allegation that Kiel teaches "that the activity monitoring unit includes a modem and interfaces with the internet" (citing to Kiel ¶37) is erroneous.

Kiel actually teaches at ¶37:

[0037] FIG. 2 shows another system 200. In this system a computer 202 is connected via an interface module 203, comprising an activity monitoring unit 204 and a modem 206 to the Internet 218. Typically, but not exclusively, unit 204 and modem 206 may be combined into one integral unit 203. Also typically, but not exclusively, both or unit 203, are included within the computer itself, (although shown here outside the computer for the sake of illustration) to the Internet 208. Linked to the Internet is also a prepayment scheme server/utility 210. Here again, as can be appreciated, connected to the Internet may be a plurality of computers 202, each one including or being connected to a unit 203, while only one is shown for ease of illustration.

Rather than teaching that the activity monitoring unit *includes* a modem, Kiel actually teaches that the activity monitoring unit (204) can be combined in an integral unit *with* the modem 206. Kiel does not teach that the activity monitoring unit can access the internet without a modem included in the device containing the activity monitoring unit – the activity monitoring unit is only a portion of a device, rather than a unique device standing alone. Such a teaching is further reinforced by ¶34:

[0034] Handheld communication device 102 includes a modem 110 connected to antenna 112, a CPU 114, an activity monitoring unit 116. Activity monitoring unit 116 monitors the incoming and outgoing communication. Unit 116 includes also a data storage 118 for storing data comprising the client credit data record and a client-associated billing rules. CPU 114 is linked to the user interface (typically a keyboard and a display) represented as block 120.

Therefore, contrary to the Examiner's allegations, the activity monitoring unit cannot function as the claimed portable networking device.

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Additionally, the Examiner's allegation that Kiel's client communication device reads on the claimed onboard system because it is performing the same function of receiving encoded purchased calling time from another device (p. 5 answer) is erroneous. Kiel's client communication device receives calling time from the same device.

Similarly, the §103 rejections are inappropriate, as the 'obvious' claims depend directly or indirectly from an allowable independent claim.

Claims 1-12 are patentable over the references of record based on the legal standards applied by the Examiner, and Appellants request withdrawal of all outstanding rejections and prompt passage to issue.

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SUMMARY

Claims 1-12 herein fully satisfy the requirements of 35 U.S.C. §§ 102, 103 and 112. In view of the foregoing, favorable consideration and passage to issue of the present application is respectfully requested. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Dated: January 31, 2006

Respectfully submitted,
JEFFREY M. STEFAN, ET. AL.

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